MONTANA LEGISLATIVE HISTORY

Chapter 270 1969

Bill H _____ S 296 Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) 2/18 ✓ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 3/4 ✓ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ____Yes ✓ No

Committee _____ Report _____

Chap.	Senate Bill	House Bill	Title	Page
267	231		An Act to Define Printing in Montana as an Act of Reproducing a Design on a Surface By Any Process.	649
268	279		An Act to Amend Sections 16-2050, and 11-1310, Revised Codes of Montana, 1947, to Require Interest on Investments and Accrued Interest on the Sale of Bonds by a City, Town, or County to be Credited to the Sinking Fund of Said City, Town, or County; Amending Section 75-3806, R.C.M. 1947, By Providing That Interest, Except Interest on the Sale of Bonds Accrued in the Period Between the Date of Issue and the Time of Purchase Which Must Be Credited to the Sinking Fund, Earned From Investment of Money From the Sale of Bonds by a Common School District or High School for the Purpose of Construction, or From Investment of Money From Sale of Bonds or Taxation for a Building Reserve Fund, May Be Credited to Either the Sinking Fund or to the Fund From Which the Money Was Withdrawn and May Be Used For Furnishing or Equipping School Buildings.	649
269	291		An Act Amending Sections 82-3001, 82-3002 and 82-3003, R.C.M. 1947 Relating to the Interdepartmental Advisory Council, By Adding New Members, Requiring Meetings Every Sixty Days and Giving the Governor Notice Thereof; Requiring Written Summary Reports By Each Agency Regarding Water Problems in the State; Delivering a Copy of the Reports to the Governor and Requiring Minutes of Regular Meetings.	654
270	296		An Act to Amend Section 92-204 of the Revised Codes of Montana 1947, to Clarify and Define in What Cases Actions May Be Brought Against Co-Employees.	656
271	317		An Act Amending Sections 68-102, 68-501, 68-702, 68-801, 68-901 and 68-1307, R.C.M. 1947, Relating to the Public Employees' Retirement System to Provide for Full Retirement for Public Employees at Age Sixty, to Increase the Employer Contribution to the Public Employees' Retirement Fund to Four Per Cent and Providing for Changes in the Method of Computing Retirement Allowances of a Member of the Legislative Assembly and Lieutenant Governor of Montana.	658
272		432	An Act to Repeal Section 91-3507, R.C.M. 1947, Which Requires Executors or Administrators to Render Accounts Within Thirty (30) Days After Expiration of Time Mentioned in Notice to Creditors.	679
273		441	An Act to Amend Section 59-538, R.C.M. 1947, to Authorize Certain Elected Officials Actual and Necessary Expenses While Engaged in State Service Away From Montana; and to Provide an Effective Date.	679
274	1		An Act to Fix the Mileage Paid Legislators Traveling to and From Sessions and Provide That Holdover Senators, Senators-Elect, and Representatives-Elect of the Majority and Minority Parties Shall Receive Mileage for Travel to and From the Pre-Session Caucuses; to Provide for a Pre-Session Caucus; to Provide That Members Appointed at the Caucus to the House Appropriations and the Senate Finance and Claims Committee Shall Begin Reviewing Money Requests Immediately; to Provide That Members of These Committees, Except Senators Elected at the General Election Held in 1968, Shall Receive $20 Per Diem for Each Day Engaged in Committee Business, and All Members of These Committees Shall Be Reimbursed for Actual and Necessary Expenses Incurred in Their Duties, All Per Diem and Expense Payments to be Paid by the State Controller From the Appropriation for Operation of the Preceding Legislative Assembly; and to Change the State Canvass Date to Permit a Caucus December 1 or Earlier; Amending Sections 23-1814 and 43-310, R.C.M. 1947.	680
275	9		An Act Amending Section 80-2310 and Section 80-2312, R.C.M. 1947, Relating to the Establishment and Supervision of a Mental Retardation Center at Glendive, Montana: Providing for a Name for Said Center.	682
276	10		An Act Amending Section 80-1601 Relating to Institutions Subject to Per Diem Charge by Adding to Such Institutions the 'Eastmont Training Center'.	683

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Senate BILL NO. 296

INTRODUCED BY Walter Hollaker

92-204

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 92-204 OF THE REVISED CODES OF MONTANA 1947, TO CLARIFY AND DEFINE IN WHAT CASES ACTIONS MAY BE BROUGHT AGAINST CO-EMPLOYEES."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 92-204, R.C.M. 1947 is amended to read as follows:

"92-204 (2839) Election of employer and employee to come under act -- action against third party causing injury. Where both the employer and employee have elected to come under this act, the provisions of this act shall be exclusive, and such election shall be held to be a surrender by such employer and the agents, servants, and employees of such employer and such employee, as ~~between~~ among themselves, of their right to any other method, form or kind of compensation, or determination thereof, or to any other compensation, or kind of determination thereof, or cause of action, action at law, suit in equity, or statutory or common-law right or remedy, or proceeding whatever, for or on account of any personal injury to or death of such employee, except as such rights may be hereinafter specifically granted; and such election shall bind the employee himself, and in case of death shall bind his personal representative, and all persons having any right or claim to compensation for his injury or death, as well as the employer, and the agents, servants and employees of such employer, and those conducting his

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business during liquidation, bankruptcy or insolvency. Provided, that whenever such employee shall receive an injury while performing the duties of his employment and such injury or injuries, so received by such employee, are caused by the act or omission of some persons or corporations other than his employer, or the agents, servants or employees of his employer, then such employee, or in case of his death his heirs or personal representatives, shall, in addition to the right to receive compensation under the Workmen's Compensation Act, have a right to prosecute any cause of action he may have for damages against such persons or corporations, causing such injury. Further provided, that whenever such employee shall receive an injury while performing the duties of his employment and such injury or injuries, so received by such employee, are caused by the intentional and malicious act or omission of an agent, servant or employee of his employer, then such employee, or in case of his death, his heirs or personal representatives, shall, in addition to the right to receive compensation under the Workmen's Compensation Act, have a right to prosecute any cause of action he may have for damages against such agents, servants or employees of his employer, causing such injury. In the event said employee shall prosecute an action for damages for or on account of such injuries so received, he shall not be deprived of his right to receive compensation but such compensation shall be received by him in addition to and independent of his right to bring action for such damages, provided, that in the event said employee, or in case of his death, his personal representative, shall bring such action, then

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the employer or insurance carrier paying such compensation shall be subrogated only to the extent of either one-half (1/2) of the gross amount paid at time of bringing action and the amount eventually to be awarded to such employee as compensation under the workmen's compensation law, or one-half (1/2) of the amount recovered and paid to such employee in settlement of, or by judgment in said action, whichever is the lesser amount. All expense of prosecuting such action shall be borne by the employee, or if the employee shall fail to bring such action or make settlement of his cause of action within six (6) months from the time such injury is received, the employer or insurance carrier who pays such compensation may thereafter bring such action and thus become entitled to all of the amount received from the prosecution of such action up to the amount paid the employee under the Workmen's Compensation Act, and all over that amount shall be paid to the employee. In the event that the amount of compensation payable under this act shall not have been fully determined at the time such employee shall receive settlement of his action, prosecuted as aforesaid, then the industrial accident board shall determine what proportion of such settlement the insurance carrier would be entitled to receive under its right of subrogation and such finding of the board shall be conclusive. Such employer or insurance carrier shall have a lien on such cause of action for one-half (1/2) of the amount paid to such employee as compensation under the Workmen's Compensation Act or one-half (1/2) of the amount recovered and paid to such employee in settlement of, or by judgment in said action, whichever is the lesser amount, which shall be a first lien thereon."

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SENATE JUDICIARY COMMITTEE

GILFEATHER, P. J., CHAIRMAN

SHEEHY, JOHN C., VICE CHAIRMAN

BOLLINGER, GORDON E.

GOODHEART, B. J. "SWEDE"

HAUGHEY, JAMES M.

LYNCH, NEIL J.

REHBERG, JACK D.

STEPHENS, STANLEY G.

TURNAGE, JEAN A.

Committee Meetings; Daily, at adjournment.

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SENATE COMMITTEE ON

JUDICIARY

DATE

NAME	1/9	1/13	1/15	1/16	1/17	1/21	1/23	1/24	1/25	1/27	1/28	1/29	1/30	1/31	2/3	2/4	2/5	2/6	2/7
Gilfeather, Chairman	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	excused		✓	✓	✓	✓	✓	✓	✓
Sheehy, Vice Ch.	✓	✓	✓	excused	excused	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
Rehberg	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Turnage	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Haughey	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
Stephens	✓	✓	✓	✓		✓	✓	excused	excused	✓	✓	✓	✓	✓	✓	✓		✓	✓
Lynch	✓	✓	✓	✓		✓	✓	✓	✓	✓	excused	no meeting	✓	✓	✓	✓		✓	✓
Bollinger	✓		✓	✓		✓	✓	excused	✓	✓	✓		✓		✓	✓	✓	✓	✓
Goodheart	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	.	✓

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CONCURRED IN	BE CONCURRED IN AS AMENDED	BE NOT CONCURRED IN
209	Feb. 1	Feb. 9		X				
223	Jan. 23	Jan. 29	X					
225	Jan. 23	Jan. 31	X					
228	Jan. 23	Feb. 9			X			
241	Jan. 23	Jan. 31		X				
242	Jan. 23	Feb. 9	X					
243	Jan. 23	Feb. 9		X				
244	Jan. 23	Feb. 9			X			
251	Jan. 23	Feb. 9		X				
259	Jan. 23	Jan. 29	X					
268	Jan. 23	Feb. 9			X			
296	Jan. 23	Feb. 5			X			
299	Jan. 23	Feb. 9		X				
302	Jan. 23	Feb. 9			X			
303	Jan. 23	Feb. 9			X			
310	Jan. 24	Jan. 31		X				
314	Jan. 23	Feb. 4		X				
316	Jan. 23	Feb. 4		X				
318	Jan. 23	Feb. 6		X				

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SENATE JUDICIARY COMMITTEE MEETING - February 4, 1969

The meeting was called to order by the Chairman, Senator Gilfeather. All of the members were present.

Senate Bill No. 296 was considered by the committee. Senators Reber and Hazelbaker appeared before the committee in support of this bill. Senator Reber said that the intent of this bill was to stop suits between fellow employees. He said that the employee has a responsibility to the employer and the employer has a responsibility to the employee.

Senator Groff appeared before the committee in support of Senate Bill No. 268. Senator Mahoney also appeared before the committee in support of this bill. Senator Groff said that the proposed bill would save the state about $80,000.00. He also said that the District Courts would not be cluttered up with involuntary disolutions if this bill were passed.

After the witnesses were execused, Senator Haughey made a motion, seconded by Senator Sheehy that Senate Bill No. 268 be taken under advisement. The motion was carried.

After consideration of Senate Bill No. 296, Senator Haughey made a motion, seconded by Senator Turnage that the following amendments be made to Senate Bill No. 296: Amend the original bill by omitting the word "agents" whereever it appears in the bill. The motion was carried. Senator Turnage then moved, seconded by SEnator Haughey, that Senate Bill No. 296, as amended, do pass. The motion was carried.

After consideration of Senate Bill No. 78, Senator Sheehy made a motion, seconded by Senator Rehberg, that the bill be amended as follows: Amend the original bill by omitting all of the bill following the enacting clause and inserting in lieu there all new material. The motion was carried. It was then moved by Senator Sheehy and seconded by Senator Goodheart that Senate Bill No. 78, as amended, do pass. The motion was carried.

After consideration of Senate Bill No. 8, Senator Haughey made a motion, seconded by Senator Stephens, that Senate Bill No. 8 do not pass. The motion was carried.

After consideration of Senate Bill No. 40, Senator Turnage made a motion, seconded by Senator Sheehy, that Senate Bill No. 40 do not pass. The motion was carried.

Senator Gilfeather made a motion, seconded by Senator Bollinger that the meeting be adjourned. The motion was carried.

Senator P. J. Gilfeather, Chairman

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ROLL CALL

JUDICIARY COMMITTEE

41st LEGISLATIVE SESSION 1969

DATE	1/28	1/29	1/30	1/31	2/1	2/3	2/4	2/5	2/6	2/7	2/10	2/11	2/12	2/13	2/14	2/18
MURPHY, James E. Chrm. (R) #30 - Flathead	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
HARRISON, J.T., Jr. V.Chr. (R) #21 - Lew.& Cl.	P	P	P	E	P	P	P	P	P	P	P	P	P	P	P	P
BAETH, Wm. R. (D) #31 - Lincoln	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P
HEMSTAD, Nels (R) #20C - Teton	P	P	–	P	P	P		P		P	P	P		P	P	P
KOLSTAD, Allen C. (R) #19 - Liberty	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P
LOBLE, Lester H. II (D) #21 - Lew. & Cl.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
McCULLOCH, Robt. B. (R) #15 - Gallatin	P	P	P	P	P	P	P	P	P			P	P	P	P	P
NYQUIST, I. M. (R) #18 - Cascade	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
PREVOST, Robt. C. (D) #3 - Richland	P	P	P	P	P	P	P	P		P		P		P	P	P
SCOTT, Jeffrey J. (R) #9 - Yellowstone	P	E	P	P	P	P	P	P	P				P	P	P	P
SMITH, Ed B. (R) #5A - Sheridan	P	P	P		P	P		P		P				P	P	
SPEARE, Wm. J. (D) #9 - Yellowstone	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P
STIMATZ, Lawrence G. (D) #23 - Silver Bow		E	-	-	-	-	-									
WARFIELD, Wm. S. IV (R) #14 - Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
WHITE, Robt. S. (R) #11 - Fergus	P	P	P	P		P	P		P	P	P	P	P		P	P
WILLIAMS, W. G. (R) #16 - Broadwater	P	P	–	P		P		P	P	P	P	P	P		P	P
YARDLEY, Dan (D) #14 - Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

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ROLL CALL

JUDICIARY COMMITTEE

41st LEGISLATIVE SESSION 1969

DATE	2/21	2/24	2/25	3/27
MURPHY, James E. Chrm. (R) #30 - Flathead	P	P	P	P
HARRISON, J.T., Jr. V.Chr. (R) #21 - Lew.& Clark	P		P	P
BAETH, Wm. R. (D) #31 - Lincoln	P	P	P	P
HEMSTAD, Nels (R) #20C - Teton		P		P
KOLSTAD, Allen C. (R) #19 - Liberty	P			P
LOBLE, Lester H. II (D) #21 - Lew. & Cl.	P	P	P	P
McCULLOCH, Robt. B. (R) #15 - Gallatin		P		P
NYQUIST, I. M. (R) #18 - Cascade	P	P	P	
PREVOST, Robt. C. (D) #3 - Richland	P	P		
SCOTT, Jeffrey J. (R) #9 - Yellowstone	P	P		P
SMITH, Ed B. (R) #5A - Sheridan		P	P	P
SPEARE, Wm. J. (D) #9 - Yellowstone	P	P	P	
STIMATZ, Lawrence G. (D) #23 - Silver Bow				
WARFIELD, Wm. S. IV (R) #14 - Park	P		P	P
WHITE, Robt. S. (R) #11 - Fergus		P		P
WILLIAMS, W. G. (R) #16 - Broadwater		P	P	
YARDLEY, Dan (D) #14 - Park	P		P	P

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JUDICIARY COMMITTEE

41st Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Actic
SB 158 Turnage, Mahoney	An act to generally revise the Montana Juvenile Code Title 10, Chapter 6.	2/10	2/13 2/21	2/21, bill reconsidered by the committee.	~~2/18~~ 2/21	~~BE NOT CONCURRED IN~~ BE CONCURRED IN AS AMENDED	
SB 160 Turnage	An act pertaining to changing the method of drawing jurors.	2/5	2/14		2/14	BE CONCURRED IN	Signed by Governo
SB 181 Haughey, Turnage	An act relating to limited partnerships - provisions for filing.	2/5	2/14		2/14	BE CONCURRED IN.	Signed by Govern
SB 38 Vainio, Moritz et al	An act regarding subdivided lands situate outside of Montana for sale.	2/10	2/18		2/18	BE CONCURRED IN	Signed by Govern
SB 296 Reber, Hazelbaker	An act to clarify and define what cases actions may be brought against co-employees.	2/10	2/18		2/24	BE CONCURRED IN	
SB 183 McKeon, Sheehy, et al	An act to establish an unsatisfied judgment fund within the state.	2/13	2/18		2/24	BE NOT CONCURRED IN	Killed by House
SB 228 Selstad, et al	An act providing for a lien for labor or parts furnished for repair and maintenance of vehicles, equipment.	2/13	2/18		2/18	BE NOT CONCURRED IN	Killed House

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February 18, 1969

JUDICIARY COMMITTEE

The meeting of the House Judiciary Committee was held in the Committee Room 300, of the Capitol Building, at 9:00 a.m., February 18, 1969. Chairman Murphy presided and all members were present except Representatives Smith and Stimatz.

After the meeting was called to order Senator Bill Hafferman explained Senate Joint Resolution No. 7. Senator Antoinette Rosell also indicated the need to look into the probate laws of Montana. There being no other proponents or opponents, the witnesses were excused.

Senator Jim Moore then explained Senate Bill No. 228. Also appearing and speaking on behalf of this bill were:

Avis Ann Tobin, representing the Montana Hardware and Implement Association; and
E. D. Lundin, representing the Montana Hardware and Implement Association.

Many questions were asked by the committee members and the witnesses were excused.

Senator Turnage then appeared as a co-sponsor for Senate Bill No. 38. Other proponents appearing and talking in favor of this bill were:

Chadwick H. Smith, representing the Montana Real Estate Commission; and
George J. Schneller, representing the Montana Real Estate Commission.

After questions from the committee members, the witnesses were excused.

Senator McKeon, chief sponsor of Senate Bill No. 183 then explained the purpose for this bill, which has to do with unsatisfied judgment fund. Opponents appearing on this bill were:

Chadwick H. Smith, representing the American Mutual Insurance Alliance;
John H. Risken, representing the American Insurance Association; and
Walter J. Nilan, representing Farmers Insurance Group.

After many questions from the committee members, the witnesses were excused.

Senator Reber, chief sponsor of Senate Bill No. 296, then explained this bill. Questions were asked of Senator Reber and he was then excused. This closed the hearings on the various bills for today.

Chairman Murphy stated that the meeting was open to discussion on Senate Bill No. 158, to generally revise the

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Montana Juvenile Code by redefining delinquent child.

SB 158: Rep. Speare moved that Senate Bill No. 158, BE NOT CONCURRED IN. The motion carried.

Next on the agenda for consideration was Senate Joint Resolution No. 7, requesting the Legislative Council to conduct a comprehensive study of the laws relating to probate procedure.

SJR #7: Rep. McCulloch moved that Senate Joint Resolution No. 7, BE NOT CONCURRED IN. The motion carried.

Senate Bill No. 228, lien for labor or parts furnished for repair and maintenance of vehicles, equipment, was then discussed at length by the committee.

SB 228: Rep. Prevost moved that Senate Bill No. 228, BE NOT CONCURRED IN. The motion carried.

Senate Bill No. 38, re registration of subdivided lands situate outside of Montana for sale, was then considered by the committee.

SB 38: Rep. Baeth moved that Senate Bill No. 38, BE CONCURRED IN. The motion carried.

Senate Bill No. 183, to establish an unsatisfied judgment fund within the State, was then discussed by the committee. Rep. Scott moved that consideration on this bill be passed for the day. The motion carried.

Senate Bill No. 296, action brought against co-employees, was decided to be passed for the day also.

There being no further business to come before the meeting, the same was adjourned.

James E. Murphy, Chairman

Val Cole, Secretary

elimination of duplication and overlapping and increased efficiency of administration.

(c) The preparation of reports and recommendations in regard to matters which the governor *shall* bring to their attention or which, in their judgment, ought to be brought to the attention of the governor.

(d) At each regular meeting of the council, each member of the council shall make a written summary report of the programs or activities of his state agency with regard to water problems in the state. A copy of each report shall be delivered to the governor and to the secretary of the council prior to its regular meetings.

(e) Said meetings shall be open to interested members of the legislature.

(f) Immediately following each meeting, the secretary of the council shall prepare summary minutes and send copies to each member and to the governor."

Approved: March 7, 1969.

CHAPTER NO. 270

An Act to Amend Section 92-204 of the Revised Codes of Montana 1947, to Clarify and Define in What Cases Actions may be Brought Against Co-Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-204, R.C.M. 1947, is amended to read as follows:

Election of employer and employee to come under act—action against third party causing injury.

"92-204 (2839) **Election of employer and employee to come under act—action against third party causing injury.** Where both the employer and employee have elected to come under this act, the provisions of this act shall be exclusive, and such election shall be held to be a surrender by such employer *and the servants, and employees of such employer* and such employee, as *among* themselves, of their right to any other method, form or kind of compensation, or determination thereof, or to any other compensation, or kind of determination thereof, or cause of action, action at law, suit in equity, or statu-

tory or common-law right or remedy, or proceeding whatever, for or on account of any personal injury to or death of such employee, except as such rights may be hereinafter specifically granted; and such election shall bind the employee himself, and in case of death shall bind his personal representative, and all persons having any right or claim to compensation for his injury or death, as well as the employer, *and the servants and employees of such employer,* and those conducting his business during liquidation, bankruptcy or insolvency. Provided, that whenever such employee shall receive an injury while performing the duties of his employment and such injury or injuries, so received by such employee, are caused by the act or omission of some persons or corporations other than his employer, *or the servants or employees of his employer,* then such employee, or in case of his death his heirs or personal representatives, shall, in addition to the right to receive compensation under the Workmen's Compensation Act, have a right to prosecute any cause of action he may have for damages against such persons or corporations, causing such injury. *Further provided, that whenever such employee shall receive an injury while performing the duties of his employment and such injury or injuries, so received by such employee, are caused by the intentional and malicious act or omission of a servant or employee of his employer, then such employee, or in case of his death, his heirs or personal representatives, shall, in addition to the right to receive compensation under the Workmen's Compensation Act, have a right to prosecute any cause of action he may have for damages against such servants or employees of his employer, causing such injury.* In the event said employee shall prosecute an action for damages for or on account of such injuries so received, he shall not be deprived of his right to receive compensation but such compensation shall be received by him in addition to and independent of his right to bring action for such damages, provided, that in the event said employee, or in case of his death, his personal representative, shall bring such action, then the employer or insurance carrier paying such compensation shall be subrogated only to the extent of either one-half (½) of the gross amount paid at time of bringing action and the amount eventually to be awarded to such employee as compensation under the workmen's compen-

sation law or one-half (½) of the amount recovered and paid to such employee in settlement of, or by judgment in said action, whichever is the lesser amount. All expense of prosecuting such action shall be borne by the employee, or if the employee shall fail to bring such action or make settlement of his cause of action within six (6) months from the time such injury is received, the employer or insurance carrier who pays such compensation may thereafter bring such action and thus become entitled to all of the amount received from the prosecution of such action up to the amount paid the employee under the Workmen's Compensation Act, and all over that amount shall be paid to the employee. In the event that the amount of compensation payable under this act shall not have been fully determined at the time such employee shall receive settlement of his action, prosecuted as aforesaid, then the industrial accident board shall determine what proportion of such settlement the insurance carrier would be entitled to receive under its right of subrogation and such finding of the board shall be conclusive. Such employer or insurance carrier shall have a lien on such cause of action for one-half (½) of the amount paid to such employee as compensation under the Workmen's Compensation Act or one-half (½) of the amount recovered and paid to such employee in settlement of, or by judgment in said action, whichever is the lesser amount, which shall be a first lien thereon."

Approved: March 7, 1969.

CHAPTER NO. 271

An Act Amending Sections 68-102, 68-501, 68-702, 68-801, 68-901 and 68-1307, R.C.M. 1947, Relating to the Public Employers' Retirement System to Provide for Full Retirement for Public Employees at Age Sixty, to Increase the Employer Contribution to the Public Employees' Retirement Fund to Four Per Cent and Providing for Changes in the Method of Computing Retirement Allowances of a Member of the Legislative Assembly and Lieutenant Governor of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 68-102, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-102. **Definitions.** The following words and phrases used in this act, unless a different meaning is plainly indicated in the context shall have the following meanings:

(a) "Retirement system" shall mean the "public employees' retirement system" created by this act. "Retirement system."

(b) "Contracting city" shall mean any municipal corporation in the state which has elected to have all, or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. "Contracting city."

(c) "Contracting county" shall mean any county in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to counties, wherever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "county," "contracting county," "county employee," "county clerk," "county" or "board of county commissioners" of any county. "Contracting county."

(d) "Public agency" shall mean any public district, local housing authority, or local authority, or public body whatsoever. "Public agency."

(e) "Contracting public agency" shall mean any public agency in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to public agencies, whenever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "public agency," "contracting public agency," "public agency employee," "secretary of governing board or analo- "Contracting public agency."